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offers English language training, and has accepted the alien expressly for a full course of study in a language with which the alien is familiar, or will enroll the alien in a combination of courses and English instruction which will constitute a full course of study; and

(iv) The alien intends, and will be able, to depart upon termination of student status.

(2) An alien otherwise qualified for classification as a student, who intends to study the English language exclusively, may be classified as a student under INA 101(a) (15) (F) (i) even though no credits are given by the accepting institution for such study. The accepting institution, however, must offer a full course of study in the English language and must accept the alien expressly for such study.

(3) The alien spouse and minor children of an alien who has been or will be issued a visa under INA 101(a) (15) (F) (i) or 101(a) (15) (M) (i) may receive nonimmigrant visas under INA 101(a) (15) (F) (ii) or 101(a) (15) (M) (ii) if the consular officer is satisfied that they will be accompanying or following to join the principal alien; that sufficient funds are available to cover their expenses in the United States; and, that they intend to leave the United States upon the termination of the status of the principal alien.

(c) *Posting of bond.* In borderline cases involving an alien otherwise qualified for classification under INA 101(a) (15) (F), the consular officer is authorized to require the posting of a bond with the Attorney General in a sum sufficient to ensure that the alien will depart upon the conclusion of studies or in the event of failure to maintain student status.

(d) *Electronic submission.* A student's acceptance documentation must be submitted to the Department via the State Department's WEB page at <http://www.iseas.state.gov>. An official designated by an approved Academic, Language or Vocational school must follow the instructions in the electronic submission process, which include the requirement to enter data from the I-20A-B or the I-20M-N into the ISEAS database and download a copy of the confirmation number issued by ISEAS

after each student record is successfully stored. The approved Academic, Language or Vocational school shall retain the ISEAS confirmation number as part of that institution's student data.

[52 FR 42597, Nov. 5, 1987, as amended at 67 FR 58695, Sept. 18, 2002]

§ 41.62 Exchange visitors.

(a) *J-1 classification.* An alien is classifiable as an exchange visitor if qualified under the provisions of INA 101(a) (15) (J) and the consular officer is satisfied that the alien:

(1) Has been accepted to participate, and intends to participate, in an exchange visitor program designated by the Department of State, as evidenced by the presentation of a properly executed Form IAP-66 or DS-2019, Certificate of Eligibility for exchange visitor status, and the Department has received from an official designated by the exchange visitor program electronic evidence documenting the student's acceptance as provided in paragraph (a)(5) of this section;

(2) Has sufficient funds to cover expenses or has made other arrangements to provide for expenses;

(3) Has sufficient knowledge of the English language to undertake the program for which selected, or, except for an alien coming to participate in a graduate medical education or training program, the sponsoring organization is aware of the language deficiency and has nevertheless indicated willingness to accept the alien; and

(4) Meets the requirements of INA 212(j) if coming to participate in a graduate medical education or training program.

(5) *Electronic submission.* An exchange visitor's acceptance documentation must be submitted to the Department via the State Department's WEB page at <http://www.iseas.state.gov>. The designated official from the approved exchange program will follow the instructions in the electronic submission process, which include the requirement to enter data from the previously issued IAP-66 or the DS-2019 into the ISEAS database and download a copy of the confirmation number issued by ISEAS after each student or exchange visitor

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record is successfully stored. The Exchange program is responsible for retaining the ISEAS confirmation number as part of that program's student or exchange visitor data.

(b) *J-2 Classification*. The spouse or minor child of an alien classified J-1 is classifiable J-2.

(c) *Applicability of INA 212(e)*. (1) An alien is subject to the 2-year foreign residence requirement of INA 212(e) if:

(i) The alien's participation in one or more exchange programs was wholly or partially financed, directly or indirectly, by the U.S. Government or by the government of the alien's country of nationality or last residence; or

(ii) At the time of the issuance of an exchange visitor visa and admission to the United States, or, if not required to obtain a nonimmigrant visa, at the time of admission as an exchange visitor, or at the time of acquisition of such status after admission, the alien is a national and resident or, if not a national, a lawful permanent resident (or has status equivalent thereto) of a country which the Director of the United States Information Agency has designated, through publication by public notice in the FEDERAL REGISTER, as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien will engage during the exchange visitor program; or

(iii) The alien acquires exchange visitor status in order to receive graduate medical education or training in the United States.

(2) For the purposes of this paragraph the terms *financed directly* and *financed indirectly* are defined as set forth in section §514.1 of chapter V.

(3) The country in which 2 years' residence and physical presence will satisfy the requirements of INA 212(e) in the case of an alien determined to be subject to such requirements is the country of which the alien is a national and resident, or, if not a national, a lawful permanent resident (or has status equivalent thereto).

(4) If an alien is subject to the 2-year foreign residence requirement of INA 212(e), the spouse or child of that alien, accompanying or following to join the alien, is also subject to that requirement if admitted to the United States

pursuant to INA 101(a) (15) (J) or if status is acquired pursuant to that section after admission.

(d) *Notification to alien concerning 2-year foreign residence requirement*. Before the consular officer issues an exchange visitor visa, the consular officer must inform the alien whether the alien will be subject to the 2-year residence and physical presence requirement of INA 212(e) if admitted to the United States under INA 101(a) (15) (J) and, if so, the country in which 2 years' residence and physical presence will satisfy the requirement.

[52 FR 42597, Nov. 5, 1987, as amended at 67 FR 58695, Sept. 18, 2002]

§41.63 Two-year home-country physical presence requirement.

(a) *Statutory basis for rule*. Section 212(e) of the Immigration and Nationality Act, as amended, provides in substance as follows:

(1) No person admitted under Section 101(a) (15)(J) or acquiring such status after admission:

(i) Whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the United States Government or by the government of the country of his nationality or of his last legal permanent residence;

(ii) Who at the time of admission or acquisition of status under 101(a)(15)(J) was a national or resident of a country which the Secretary of State of the Department of State, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged [See "Exchange Visitor Skills List", 49 FR 24194, *et seq.* (June 12, 1984) as amended]; or

(iii) Who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been physically present in the country of his nationality or his last legal permanent residence for an aggregate of at least